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7 **BEFORE THE POLLUTION CONTROL HEARINGS BOARD**  
8 **STATE OF WASHINGTON**

9 PUGET SOUNDKEEPER ALLIANCE;  
10 WASTE ACTION PROJECT;  
11 WASHINGTON PUBLIC EMPLOYEES  
12 FOR ENVIRONMENTAL  
13 RESPONSIBILITY; RESOURCES FOR  
14 SUSTAINABLE COMMUNITIES;  
15 CITIZENS FOR A HEALTHY BAY;  
16 and WASHINGTON  
17 ENVIRONMENTAL BALANCE, INC.,

18 and

19 THE BOEING COMPANY,

20 and

21 SNOHOMISH COUNTY,

22 Appellants,

23 v.

24 STATE OF WASHINGTON,  
25 DEPARTMENT OF ECOLOGY, and  
26 TOM FITZSIMMONS, its Director,

Respondent,

and

ASSOCIATION OF WASHINGTON  
BUSINESS,

Intervenor.

PCHB No. 02-162

*Consolidated with*

PCHB No. 02-163

PCHB No. 02-164

**STIPULATION AND AGREED  
ORDER OF DISMISSAL**

COMES NOW Appellants, Puget Soundkeeper Alliance; Waste Action Project; Washington Public Employees For Environmental Responsibility; Resources For Sustainable Communities; Citizens For A Healthy Bay; and Washington Environmental Balance, Inc., by and through their attorneys, Richard A. Smith; and Respondent, State of Washington, Department of Ecology ("Ecology"), by and through its attorneys, Christine O. Gregoire, Attorney General, and Ronald L. Lavigne, Assistant Attorney General, and agree to the entry of this Stipulation and Agreed Order of Dismissal in the form attached.

### STIPULATION

1. The parties to this stipulation and agreed order of dismissal stipulate that the following revised language for permit condition S4.F.2 will constitute settlement of issue number 9 in the Board's Pre-Hearing Order:

The Permittee can demonstrate to Ecology's satisfaction after eight or more consecutive quarterly samples that there is no reasonable potential to violate water quality standards. For the purposes of suspending monitoring required under S4.F only, no reasonable potential to violate water quality is defined as no single sample exceeding eighty percent of the effluent limitation, and the average of the last eight consecutive quarterly samples is less than sixty percent of the effluent limitation.

2. The parties to this Stipulation and Agreed Order of Dismissal stipulate that the language in Exhibit A, to be inserted at the end of S4.C.1 of the Industrial Stormwater General Permit, and the language in Exhibit B, to be added as permit condition S5.F for Public Access of SWPPPs, shall constitute settlement of issue number 10 in the Board's Pre-Hearing Order.

3. Ecology will commence a major modification of the Industrial Stormwater General Permit to incorporate the language in Paragraph 1 of this stipulation, and the language in Exhibits A and B to this stipulation no later than 90 days after conclusion of all outstanding appeals associated with this current appeal. The Modified Industrial Stormwater General Permit will be modified in accordance with the provisions of ch. 173-226 WAC and 40 C.F.R. Part 122.62 and 124.5. If the modified permit does not include the language in Paragraph 1 of

1 this stipulation or the language in Exhibits A and B, the parties to this stipulation reserve their  
2 right to appeal the amended permit.

3 4. The undersigned representatives certify that they are fully authorized by the  
4 party whom they represent to enter into the terms and conditions of this Stipulation and  
5 Agreed Order of Dismissal and legally to bind such party thereto. The undersigned parties  
6 consent to the submission of this Stipulation and Agreed Order of Dismissal to the Pollution  
7 Control Hearings Board for approval and entry.

8 STATE OF WASHINGTON  
9 DEPARTMENT OF ECOLOGY

PUGET SOUNDKEEPER ALLIANCE

10 \_\_\_\_\_  
11 By:

\_\_\_\_\_

12 Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

13 WASTE ACTION PROJECT

WASHINGTON PUBLIC EMPLOYEES  
FOR ENVIRONMENTAL  
RESPONSIBILITY

15 \_\_\_\_\_  
16 By:

\_\_\_\_\_

17 Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

18 RESOURCES FOR SUSTAINABLE  
19 COMMUNITIES

CITIZENS FOR A HEALTHY BAY

20 \_\_\_\_\_  
21 By:

\_\_\_\_\_

22 Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

23 WASHINGTON ENVIRONMENTAL  
24 BALANCE, INC.

25 \_\_\_\_\_  
26 By:

Dated: \_\_\_\_\_

1 **Approved as to form and content:**

2 CHRISTINE O. GREGOIRE  
3 Attorney General

SMITH & LOWNEY P.L.L.C.

4 \_\_\_\_\_  
5 RONALD L. LAVIGNE, WSBA #18550  
6 Assistant Attorney General  
7 Attorney for Respondents

\_\_\_\_\_  
RICHARD A. SMITH, WSBA #21788  
Attorneys for Environmental Appellants

8 Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

9 **AGREED ORDER OF DISMISSAL**

10 Having reviewed the foregoing Stipulation and the file and pleadings herein, and it  
11 appearing that the parties have reached an agreement;

12 IT IS HEREBY ORDERED that the foregoing Stipulation is entered as an ORDER of  
13 this Board and legal issue number 9 and 10 from the Board's pre-hearing order in this case,  
14 *Puget Soundkeeper Alliance, et al. v. Ecology*, PCHB Nos. 02-162, 02-163 and 02-164 are  
15 hereby DISMISSED with prejudice to the parties signing this agreement and without costs or  
16 attorneys fees.

17 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

18 **POLLUTION CONTROL HEARINGS BOARD**

19 \_\_\_\_\_  
ROBERT V. JENSEN, Presiding

20 \_\_\_\_\_  
KALEEN COTTINGHAM, Member

21 \_\_\_\_\_  
22 WILLIAM H. LYNCH, Member  
23  
24  
25  
26

1 **Approved as to form;**  
2 **Notice of presentation waived:**

3 SMITH & LOWNEY P.L.L.C.

4 \_\_\_\_\_  
5 RICHARD A. SMITH, WSBA #21788  
6 Attorneys for Environmental Appellants

7 **Presented by:**

8 CHRISTINE O. GREGOIRE  
9 Attorney General

10 \_\_\_\_\_  
11 RONALD L. LAVIGNE, WSBA #18550  
12 Assistant Attorney General  
13 Attorney for Respondents  
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